

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

C. D. PICKLE, JR. (# 31459)

PETITIONER

v.

No. 4:07CV17-P-B

MISSISSIPPI COURT OF APPEALS, ET AL.

RESPONDENTS

ORDER OF DISMISSAL

On July 27, 2007, the court directed the petitioner to submit within twenty days an amended petition for a writ of *habeas corpus* on the court's local form for such cases. The court cautioned the petitioner that failure to submit the proper form within twenty days would result in dismissal of this case without prejudice. Despite this warning, the petitioner refused to submit an amended petition on the proper form. In his response to the court's order, the petitioner stated that he need not follow the order because he was not challenging his conviction and sentence; instead, he was challenging disposition of his state court attempts to obtain post-conviction relief. Nonetheless, in his current petition for a writ of *habeas corpus*, C. D. Pickle is "a person is custody pursuant to the judgment of a State court only on the ground that he is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2254. As he challenges his confinement under a state court judgment, his challenge falls under 28 U.S.C. § 2254. The petitioner has refused to follow the court's July 27, 2007, order. This case is therefore **DISMISSED** without prejudice for failure to prosecute and for failure to comply with an order of the court under FED. R. CIV. P. 41(b).

SO ORDERED, this the 25th day of February, 2008.

/s/ W. Allen Pepper, Jr.
W. ALLEN PEPPER, JR.
UNITED STATES DISTRICT JUDGE